

BILL LOCKYER, Attorney General  
of the State of California  
ROBERT McKIM BELL  
Supervising Deputy Attorney General  
Beneth A. Browne, State Bar No. 202679  
Deputy Attorney General  
California Department of Justice  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013-1230  
Telephone: (213) 897-7816  
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2005 64257

STEPHEN YUN-KEONG YAP  
10067 Thornbird Street  
Moreno Valley, CA 92557

**A C C U S A T I O N**

Physical Therapist License No. PT 25764

Respondent.

Complainant alleges:

**PARTIES**

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about December 4, 2000, the Physical Therapy Board of California issued Physical Therapist License Number PT 25764 to STEPHEN YUN-KEONG YAP (Respondent). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2006, unless renewed. There is no prior record of discipline.

///

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2609 of the Code states:

“The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.”

5. Section 2660 of the Code states:

“The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:

...

(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

...

6. Section 2661 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgement of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.”

1           7.       Section 490 states:

2           "A board may suspend or revoke a license on the ground that the licensee has been  
3 convicted of a crime, if the crime is substantially related to the qualifications, functions,  
4 or duties of the business or profession for which the license was issued. A conviction  
5 within the meaning of this section means a plea or verdict of guilty or a conviction  
6 following a plea of nolo contendere. Any action which a board is permitted to take  
7 following the establishment of a conviction may be taken when the time for appeal has  
8 elapsed, or the judgment of conviction has been affirmed on appeal, or when an order  
9 granting probation is made suspending the imposition of sentence, irrespective of a  
10 subsequent order under the provisions of Section 1203.4 of the Penal Code."

11          8.       Section 493 of the Code states:

12          "Notwithstanding any other provision of law, in a proceeding conducted by a  
13 board within the department pursuant to law to deny an application for a license or to  
14 suspend or revoke a license or otherwise take disciplinary action against a person who  
15 holds a license, upon the ground that the applicant or the licensee has been convicted of a  
16 crime substantially related to the qualifications, functions, and duties of the licensee in  
17 question, the record of conviction of the crime shall be conclusive evidence of the fact  
18 that the conviction occurred, but only of that fact, and the board may inquire into the  
19 circumstances surrounding the commission of the crime in order to fix the degree of  
20 discipline or to determine if the conviction is substantially related to the qualifications,  
21 functions, and duties of the licensee in question.

22                "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
23 'registration.'"

24          9.       Section 2661.5 of the Code states, in pertinent part:

25                "(a) In any order issued in resolution of a disciplinary proceeding before the  
26 board, the board may request the administrative law judge to direct any licensee found  
27 guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and  
28 reasonable costs of the investigation and prosecution of the case."

1           “(b) The costs to be assessed shall be fixed by the administrative law judge and  
2 shall not in any event be increased by the board. When the board does not adopt a  
3 proposed decision and remands the case to an administrative law judge, the  
4 administrative law judge shall not increase the amount of the assessed costs specified in  
5 the proposed decision.

6           “(c) When the payment directed in an order for payment of costs is not made by  
7 the licensee, the board may enforce the order of payment by bringing an action in any  
8 appropriate court. This right of enforcement shall be in addition to any other rights the  
9 board may have as to any licensee directed to pay costs.

10           “(d) In any judicial action for the recovery of costs, proof of the board's decision  
11 shall be conclusive proof of the validity of the order of payment and the terms for  
12 payment.”

#### 13                           CAUSE FOR DISCIPLINARY ACTION

##### 14                           (Misdemeanor Criminal Conviction)

15           10.     Respondent is subject to disciplinary action for unprofessional conduct  
16 pursuant to Business and Professions Code sections: 2660(d); and/or 2661; and/or 490 and 493.  
17 The facts and circumstances are as follows:

18                   A.     On or about May 16, 2005, in the County of Riverside, Superior  
19 Court of the State of California, Superior Court Case No. RIM467749, respondent was  
20 convicted, following a guilty plea to a misdemeanor citation alleging a violation of Penal Code  
21 section 647, subdivision (a), disorderly conduct.

22                   B.     Respondent was placed on summary probation for two years,  
23 ordered to pay a fine and restitution, and ordered to stay away from the area where he was cited.

24                   D.     Said conviction will be established as being substantially related to  
25 the qualifications, functions, and duties of a physical therapist, according to proof at hearing.

26     ///

27     ///

28     ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Physical Therapy Board of California issue a  
4 decision:

5 1. Revoking or suspending Physical Therapist Assistant License Number PT  
6 25764, issued to STEPHEN YUN-KEONG YAP;

7 2. Ordering STEPHEN YUN-KEONG YAP to pay the Physical Therapy  
8 Board of California the reasonable costs of the investigation and enforcement of this case,  
9 pursuant to Business and Professions Code section 2661.5;

10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: October 26, 2005

12  
13 Original Signed By:  
14 STEVEN K. HARTZELL  
15 Executive Officer  
16 Physical Therapy Board of California  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant  
20  
21  
22  
23  
24  
25  
26  
27  
28